United Nations TD/RBP/CONF.8/11

United Nations Conference on Trade and Development

Distr.: General
25 August 2015

Original: English

Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices
Geneva, 6–10 July 2015

Report of the Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

Held at the Palais des Nations, Geneva, from 6 to 10 July 2015

GE.15-14339(E)

Please recycle

Contents

		Page
I.	Resolution adopted by the Conference	3
II.	President's summary	7
	A. Opening statements	7
	B. Summary of sessions	7
	1. Session I: Ways and means to strengthen competition law enforcement and advocacy	8
	2. Session II: Role of competition in the pharmaceutical sector and its benefits for consumers	9
	3. Session III: International cooperation in merger cases as a tool for effective enforcement of competition law	10
	4. Session IV: Report of the work of the ad hoc expert meetings, including the proposal for the revision of the United Nations Guidelines for Consumer Protection	12
	5. Session V: Review of the implementation of the Set, including consultations on revised chapters I, IV, VIII, XI and XIII of the UNCTAD Model Law on Competition	13
	6. Session VI: Capacity-building activities and an evaluation of UNCTAD voluntary peer reviews	14
	7. Bipartite voluntary peer review of competition law and policy in Fiji and Papua New Guinea	16
	8. Voluntary peer review of competition law and policy in Albania	17
	9. High-level round table: Role of competition policy in promoting sustainable and inclusive growth and development	18
III.	Organizational matters	20
Annexes		
	I. Provisional agenda for the fifteenth session of the Intergovernmental Group of Experts on Competition Law and Policy	22
	II. Attendance	23

I. Resolution adopted by the Conference

The Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices,

Having reviewed all aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, 35 years after its adoption, and recognizing the positive contribution made by the Set and by the Intergovernmental Group of Experts on Competition Law and Policy in promoting competition culture,

Noting the changes that have taken place in the world economy, as well as the reforms that developing countries and countries with economies in transition have made over the last 35 years, including the liberalization of economies and the development of competition,

Reaffirming the resolutions on strengthening the implementation of the Set adopted by the previous six United Nations Conferences to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices,

Noting with appreciation the work on consumer protection carried out since the Sixth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices by the various ad hoc expert meetings on consumer protection regarding the revision of the United Nations Guidelines for Consumer Protection,

Taking note of the decision taken by the thirteenth session of the United Nations Conference on Trade and Development in paragraphs 50 and 56 (m) of the Doha Mandate that "The objective of competition policy is to create and maintain a competitive environment by eliminating anticompetitive practices. States are encouraged to consider establishing competition laws and frameworks in coherence with their national development strategies" and that UNCTAD should "Conduct analysis and research and help developing countries and countries with economies in transition to formulate and implement competition and consumer protection policies, promote the sharing of best practices, and carry out peer reviews with regard to the implementation of such policies",

Fundamental role of competition law and policy

1. *Reaffirms* the fundamental role of competition law and policy for economic development and recommends the continuation of the important work programme within UNCTAD's intergovernmental machinery that addresses competition law and policy issues, and proceeds with the active support and participation of competition law and policy authorities of member States;

2. *Calls upon* all member States to strive to efficiently implement the provisions of the Set, given that a rigorous application of competition policy is important to guarantee well-functioning markets, which is in turn necessary for the efficient use of resources, economic development and social well-being;

3. *Calls upon* member States to increase cooperation between their competition authorities and Governments in order to strengthen, for the benefit of all countries, effective international action against anticompetitive practices as covered by the Set, especially when these occur at the international level, recognizing such cooperation as particularly important for developing countries and countries with economies in transition;

4. *Recommends* the strengthening of the work programme within UNCTAD's secretariat and intergovernmental machinery that addresses competition law and policy

issues, and proceeds with the active support and participation of competition law and policy authorities of member States;

Documentation

5. *Takes note with appreciation* of the documentation prepared by the UNCTAD secretariat for the Conference: TD/RBP/CONF.8/2, TD/RBP/CONF.8/3, TD/RBP/CONF.8/4, TD/RBP/CONF.8/5, TD/RBP/CONF.8/6, TD/RBP/CONF.8/7, TD/RBP/CONF.8/8, TD/RBP/CONF.8/9, TD/RBP/CONF.8/10, UNCTAD/DITC/CLP/2015/1 and UNCTAD/DITC/CLP/2015/2;

UNCTAD voluntary peer reviews of competition law and policy

6. *Underlines* the value of the UNCTAD voluntary peer reviews as a useful tool for the exchange of experiences and cooperation, at both the national and regional levels, and invites member States to assist UNCTAD on a voluntary basis by providing experts or other resources for future activities in connection with these reviews;

7. *Decides* that UNCTAD should undertake:

(a) Further voluntary peer reviews of competition law and policy in member States or regional groupings, alongside sessions of the Intergovernmental Group of Experts on Competition Law and Policy;

(b) Follow-up peer review activities in light of the positive evaluations, feedback and recommendations made during the Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, particularly in the following reports:

(i) External evaluation of UNCTAD peer reviews on competition policy (UNCTAD/DITC/CLP/2014/5);

(ii) UNCTAD peer review mechanism for competition law: 10 years of existence (UNCTAD/DITC/CLP/2015/4);

Model Law on Competition

8. *Takes note in particular* of the revised Model Law and its commentary as an important guide to the economic development and competition approaches followed by different countries on various points;

9. *Requests* the UNCTAD secretariat to continue to revise periodically the commentary to the Model Law in the light of legislative developments and comments made by member States, for consideration by future sessions of the Intergovernmental Group of Experts on Competition Law and Policy, and to disseminate widely the Model Law and its commentary as revised;

Technical cooperation

10. *Endorses* the UNCTAD secretariat's newly adopted global strategy as a response to increased needs for technical cooperation and assistance across both public and private sectors for all developing countries, particularly among small island developing States, landlocked developing countries and other structurally weak, vulnerable and small economies and countries with economies in transition.

11. *Requests* UNCTAD, in implementing the new global strategy, to:

(a) Conduct, in consultation with relevant organizations and technical assistance providers, a review of technical cooperation activities, to avoid duplication and encourage providers and recipients of technical cooperation to recognize the results of the substantive work of UNCTAD;

(b) Target cost-effectiveness, complementarity and collaboration among providers and recipients of technical cooperation, in terms of both the geographical focus of activities and the nature of cooperation undertaken;

(c) Identify priority areas and issues of competition law and policy for the implementation of technical cooperation activities, including problems for consideration and action within regional and subregional settings;

(d) Widen the search for potential donors and mobilize resources for long-term strategic interventions;

UNCTAD Research Partnership Platform on Competition and Consumer Protection

12. *Recognizes* the fundamental role of the Platform in strengthening UNCTAD's research and policy analysis capacities, and the extensive growth of the Platform, in terms of projects and participants, since its establishment in 2010;

Consumer protection

13. *Invites* the General Assembly of the United Nations, at its seventieth session in 2015, to consider the adoption of the draft resolution on consumer protection and the revised United Nations Guidelines for Consumer Protection as annexed to the present resolution;*

14. *Requests* the Trade and Development Board of UNCTAD to take note of the draft resolution on consumer protection and the revised United Nations Guidelines for Consumer Protection as annexed to the present resolution;*

15. *Invites* UNCTAD to convene yearly ad hoc expert meetings on consumer protection until the establishment of an Intergovernmental Group of Experts on Consumer Protection Law and Policy;

Strengthening common ground in competition laws and policies

16. *Decides* that the Intergovernmental Group of Experts on Competition Law and Policy should continue, upon request by member States and in collaboration with national and regional competition law and policy authorities, to further strengthen capacities among and between member States to identify anticompetitive practices that affect economic development and that this exercise should, inter alia, focus on:

(a) Identifying common ground, that is broad similarities in the approaches towards different competition law and policy questions by governments;

(b) Highlighting and encouraging exchanges of views in areas where identification of common ground is difficult, for example where differences exist between economic theories or among competition laws or policies;

(c) Analysing in depth the effectiveness of enforcement of competition laws, including enforcement in cases of multinational anticompetitive practices;

(d) Identifying appropriate measures to assist developing countries and countries with economies in transition that might be hampered by anticompetitive practices;

UNCTAD work programme support

17. *Invites* member States in a position to do so to support the implementation of the activities outlined in this resolution and, in this respect, expresses its appreciation and

* The annex is provided in document TD/RBP/CONF.8/11/Add.1.

gratitude to those member States and organizations that have provided financial contributions;

18. *Invites* intergovernmental organizations and financing programmes and agencies to provide resources for the activities mentioned in this resolution;

Informal consultations for future sessions of the Intergovernmental Group of Experts on Competition Law and Policy

19. *Reaffirms* that future sessions of the Intergovernmental Group of Experts should include four clusters of issues for informal consultations, with special focus on practical cases, namely:

(a) Competition and inclusive and sustainable development;

(b) Best practices in the design and enforcement of competition law and policy and its interaction with consumer protection;

(c) Provision of capacity-building and technical assistance;

(d) International cooperation and networking;

20. *Outlines* the following topics for proposed informal consultations during the fifteenth session of the Intergovernmental Group of Experts:

(a) Examining the interface between the objectives of competition policy and intellectual property;

(b) Enforcing competition policy in the retail sector;

(c) Enhancing legal certainty in the relationship between competition authorities and judiciaries;

(d) Strengthening private sector capacities for competition compliance;

21. *Invites* governments, during future consultations in meetings of the Intergovernmental Group of Experts, to clarify the scope or application of their competition laws and policies, with a view to improving mutual understanding of substantive principles and procedures of competition law and policy. In this context, governments may wish to discuss:

(a) How competition law and policy should apply to State activities such as the regulation of State enterprises, State monopolies, natural monopolies and enterprises with exclusive rights granted by the State;

(b) The contribution of competition policies in reducing all forms of poverty in the context of the post-2015 development agenda;

Further review of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

22. *Recommends* that the General Assembly convene an Eighth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, to be held in Geneva, under UNCTAD auspices, in the year 2020.

Closing plenary meeting
10 July 2015

II. President's summary

A. Opening statements

1. The following speakers made opening statements: the Deputy Secretary-General of UNCTAD; the representative of the Philippines; the representative of the Dominican Republic; the representative of Pakistan; and the representative of Peru.

2. The Deputy Secretary-General emphasized that competition policy made for more efficient markets and more efficient governance. Expanded market opportunities had not always created desired outcomes, especially in less mature markets, such as in developing countries. Competition policy was therefore needed to ensure sustained trust in structural reforms, and was also relevant for the fulfilment of sustainable development goals.

3. One delegate commended the outcome of the UNCTAD voluntary peer reviews of competition law and policy undertaken in 2013 at the thirteenth session of the Intergovernmental Group of Experts on Competition Law and Policy. Another delegate outlined the importance of the peer review process. As an example, the recommendations made during the peer review of competition law and policy in the Philippines, undertaken in 2014 at the fourteenth session of the Intergovernmental Group of Experts, had led to the adoption of a comprehensive competition law in the legislative agenda of the national parliament. The delegate recognized the need to update existing legislative mechanisms on consumer protection, and highlighted that competition policy could contribute to sustainable and inclusive growth and development.

4. Another delegate stressed the importance of fostering competition culture and education within public sector entities, as well as civil society, and that developing countries required international cooperation to ensure the benefits of competition reached end-consumers. Finally, another delegate emphasized that competition was essential for economic development in terms of linkages with free trade policy and, noting current UNCTAD engagement on consumer protection issues, urged delegates to provide support and due consideration during discussions on the review of the United Nations Guidelines for Consumer Protection and in future work on consumer protection in the United Nations.

B. Summary of sessions

(Agenda item 6)

5. Under the agenda of the Conference, six sessions were held, addressing the following: ways and means to strengthen competition law enforcement and advocacy; role of competition in the pharmaceutical sector and its benefits for consumers; international cooperation in merger cases as a tool for effective enforcement of competition law; report of the work of the ad hoc expert meetings, including the proposal for the revision of the United Nations Guidelines for Consumer Protection; review of the implementation of the Set, including consultations on revised chapters I, IV, VIII, XI and XIII of the UNCTAD Model Law on Competition; and capacity-building activities and an evaluation of UNCTAD voluntary peer reviews. For each session, background papers were presented by the secretariat and related discussions were held. Also under the Conference agenda, two sessions were convened for the peer reviews of competition law and policy in Albania, Fiji and Papua New Guinea, and a high-level round table was held on the role of competition policy in promoting sustainable and inclusive growth and development.

6. The present account of the Conference, prepared under the responsibility of the President, is a summary of the main points from each session, including keynote speeches and presentations by discussants, interventions and written contributions.

I. Session I: Ways and means to strengthen competition law enforcement and advocacy

7. The keynote speakers and discussants for the first session were from the Governments of Nicaragua, the Russian Federation, South Africa and Viet Nam and an academic from the United Kingdom of Great Britain and Northern Ireland.

8. The session launched the discussion of the paper "Ways and means to strengthen competition law enforcement and advocacy" (TD/RBP/CONF.8/5).

9. The keynote speaker addressed three areas, namely goals, communications and impact assessments. With regard to goals, the speaker stressed that competition policy could not be pursued in isolation, that agencies should be able to translate abstract goals into operational goals and that goals should be formulated together with relevant stakeholders to ensure inclusiveness. In particular, goals should be aligned to the capacity of an agency, while taking into account the opportunity costs of other competition goals and resources available. In this regard, a benchmarking toolbox could be used to measure agency capacities. Communications could be internal (for example, efficiency considerations of staff) or external (for example, advocacy). The speaker emphasized the need to focus on external communications as a means to assist with actual and perceived agency impact. Finally, with regard to impact assessments, the speaker underlined the importance of determining the actual impact of an agency while understanding its costs. A clear, transparent and consistent sequence was crucial to this exercise. In the dynamic process of establishing goals, values and domestic realities (for example, budgets and political environments) played a pivotal role.

10. The ensuing interactive debate outlined the diversity of institutional design in the competition systems of Nicaragua, the Russian Federation, South Africa and Viet Nam. The debate was structured on the three areas noted by the keynote speaker.

11. With regard to goals, the discussants highlighted experiences related to how the core goals of competition law had been clarified through factual competition cases, including goals such as ensuring consumer choice, innovation and lower prices; protecting the process of competition and rivalry; and controlling the exercise of economic power by preventing monopolies, punishing cartels and remedying market failures. In South Africa, for example, goals were in place related to other public policy objectives such as the promotion of employment, well-functioning markets, fairness and opportunities for participation by small and medium-sized enterprises. The discussants also shared experiences related to goal setting, best practices and meeting the wider political goals of their Governments. In Nicaragua, for example, two aspects were involved: the programme and internal work, whereby an agency took into account what types of objectives had an impact in key markets; and reactive efforts, based on external work by economic agents. The agency had at times to address unfair competition cases, to meet the expectations of key economic agents, as well as requests from the central Government on specific topics such as, among others, factors that might influence the base salary in the country. There was consensus among the discussants that competition policy could not be pursued in isolation, without reference to the legal, economic, political and social context, and that the politicization of competition law and policy was a reality that agencies should be aware of. Agencies had to take action to mitigate this externality.

12. With regard to communications, the discussants focused on, among others, agency teams involved in strategy design, transparency, clear statements with regard to evaluation tools and goals to be achieved by staff and other stakeholders, empowerment of teams (for example by encouraging ownership) and feedback loops to enhance creativity and motivation. In the Russian Federation, for example, the competition agency had over 3,000 employees, 25 independent departments and 84 regional offices. Internal communications had been a challenge successfully overcome through the following

mechanisms: cross-department case examinations; two-way communications of staff via an internal portal; unified enforcement across all regional offices; and provision of staff incentives in a system of promotion based on meritocracy. Finally, the discussants shared experiences related to external communications, in particular how agencies identified their stakeholders and the objectives of external communications, to ensure agency work led to significant, real world, practical benefits for consumers and clear and sound enforcement records.

13. The discussants stressed the importance of assessing the impact of agency actions and using shared quantitative and qualitative benchmark indicators for assessing the impact of competition decisions on the economy. One discussant highlighted the example of the peer review of competition law and policy in Nicaragua in 2013, which had addressed underlying constraints in the agency's capacity.

2. Session II: Role of competition in the pharmaceutical sector and its benefits for consumers

14. The keynote speakers and discussants for the second session were from the Governments of China, Italy, South Africa and the United States of America and an academic from the United Kingdom.

15. The session launched the discussion of the paper "The role of competition in the pharmaceutical sector and its benefits for consumers" (TD/RBP/CONF.8/3).

16. The keynote speaker discussed whether antitrust law should be used to police shortcomings in patent policy or the regulatory regime in the pharmaceutical sector. The speaker divided anticompetitive strategies to block or delay the development or market access of generic products by originator companies into the following categories: conduct within the boundaries of an original patent (for example, evergreening); conduct outside the boundaries of an original patent (for example, product hopping); and conduct taking place towards the end of the patent protection period but with consequences materializing after the patent had expired (for example, pay-for-delay agreements). The speaker suggested that competition authorities should concentrate on product hopping.

17. The interactive debate was initiated by a discussant who provided an overview of the pharmaceutical sector in South Africa, including key competition cases and recent developments in intellectual property policy and their relation to competition promotion. Greater amounts of generic medicines were consumed in South Africa than those of originator companies, yet more money was spent on the latter. Intellectual property issues related to excessive pricing and exclusive conduct had been raised in one case regarding an antiretroviral medicine. Intervention by the authority had achieved a compromise leading to a 68 per cent drop in price and a significant lowering of the price of generic versions of the medicine. Since 2013, the Government had been engaged in reform of the intellectual property system, to promote competition by making the earlier entry of generic products more viable. The authority's assessments did not view intellectual property rights as being beyond competition scrutiny. Rather, the exploitations of such rights were assessed against competition principles and their benefits to end-consumers.

18. The next discussant provided an example of pricing system reform in the pharmaceutical sector in China. The authority's strategy involved declaring the sector as a priority for competition enforcement and promoting collaboration between price regulation and competition policy and linkages between competition enforcement and advocacy.

19. Another discussant addressed the interface between patent law and competition law in the pharmaceutical sector and provided examples of competition enforcement in Italy, in particular a landmark case on problematic patent strategies by an originator company that had included evergreening, misuse of the medicine and patent regulatory system and

abusive litigation. The authority's decision and the final judiciary judgement had found the conduct illegal, stating that the abuse of rights did not suppose a formal infringement of laws but distorted the exercise of granted rights. The discussant concluded that both intellectual property and competition policies drove innovation. The abuse of intellectual property rights thus negated both competition and innovation and violated human rights.

20. The following discussant provided examples of competition enforcement against reverse payments, particularly under the Drug Price Competition and Patent Term Restoration Act in the United States. The discussant noted that the market changed quickly to generic products when these were made available and that consumers had saved $931 billion since entry into force of the Act. In reviewing various antitrust cases related to pharmaceuticals, the discussant stressed that pay-for-delay agreements should be analysed under the rule of reason. The scope of patent rights excluded conduct involving the use of monopoly profits to pay competitors to stay out of the market.

21. The representative of a regional group noted that the misuse of regulatory procedures to exclude competitors and payments to competitors to keep them out of the market at the expense of citizens were distortions of effective competition unrelated to the legitimate protection of intellectual property. The representative emphasized that competition from generic products was a dynamic force for stimulating pharmaceutical companies to invest in the research and development of innovative treatments.

22. One delegate provided an example of current action against bid rigging in public procurement and merger review cases in the pharmaceutical sector in India. Another delegate presented a paper addressing the behaviour of originator companies and the scope of competition law in dealing with associated problems. Some delegates discussed the use of illicit rebates in the pharmaceutical sector and an example was provided of competition law in the Republic of Korea, where illicit rebates were one category of unfair competition practices made against competitors. Another delegate presented the results of an assessment of the affordability of pharmaceuticals based on an analysis of consumer prices and price setting in the Russian Federation and other comparable markets, including in Brazil, China, India and South Africa, as well as members of the Commonwealth of Independent States and European Union. The representative of an intergovernmental organization and the representative of a non-governmental organization advocated the use of compulsory licensing.

3. Session III: International cooperation in merger cases as a tool for effective enforcement of competition law

23. The keynote speakers and discussants for the third session were from the Governments of Germany, Kenya, the Republic of Korea and the United States and from the Common Market for Eastern and Southern Africa and the World Bank.

24. The session launched the discussion of the paper "International cooperation in merger cases as a tool for effective enforcement of competition law" (TD/RBP/CONF.8/4). Both formal and informal cooperation between competition agencies were important for effective enforcement of competition law, particularly in merger cases.

25. The keynote speaker stressed that global mergers were increasing as companies went global and that even smaller mergers had multinational effects. Given limited resources, the speaker recommended that competition agencies focus on merger cases with strong impacts on the whole economy, and handle cases more efficiently and consistently through international cooperation. The speaker emphasized the need for merging parties to provide, as a key element, confidentiality waivers, to maximize the benefits of international cooperation. Finally, the speaker posited a positive outlook for future cooperation efforts, as agencies had already made great progress in international cooperation in the last decades.

including the publication by the International Competition Network of a guide for international cooperation in merger reviews.

26. The interactive debate was initiated by a discussant who highlighted the experiences of the Common Market for Eastern and Southern Africa in international cooperation and its success in establishing a formal legal framework that provided a mandate for cooperation among the 19 member States and encouraging informal cooperation and sharing information. The discussant emphasized that international cooperation had many benefits for competition enforcement, that good cooperation could only be based on mutual understanding of each other's legislation and that formal requirements should not undermine informal cooperation. The competition authority assisted member States with implementation, advocacy and enforcement, and bilateral agreements and memorandums of understanding had been signed with member States to facilitate cooperation efforts. Challenges faced by the Common Market for Eastern and Southern Africa included the need to invest in infrastructure, a lack of capacity to enforce competition law at the national level and the fact that some national legislation did not permit information sharing.

27. The next discussant highlighted the upward trend in international mergers, whereby international merger cases were increasingly surpassing domestic ones in open economies, such as in Kenya. Driving factors of cooperation included the fact that mergers were viewed in many instances as a source of foreign direct investment in the country. One example of cooperation was joint training, for example as conducted in Kenya with the Japan Fair Trade Commission. Existing challenges included different thresholds and timelines; inconsistency in economic analysis, market definitions and management of confidential information; and lack of a legal framework.

28. Another discussant suggested that competition agencies should maintain a reputation for protecting the confidential information of merging firms, as effective cooperation often depended on exchanging such information and firms were more likely to cooperate when confident about confidential treatment. To achieve a balance between cooperation and confidentiality, it was necessary to divide information into three types, namely information that was publicly available, information normally kept confidential but not protected by law (agency confidential) and information protected by law (party confidential). It was also important for merging firms to be notified as to how their confidential information would be protected. In this regard, the discussant emphasized that getting to know each other mattered and the most important instruments of cooperation were the telephone and e-mail.

29. The following discussant stressed the need to employ a two-phase review process in merger cases and use resources more effectively, and noted that merger control was increasingly seen as a key component of the competition law framework of supranational regional organizations such as the Caribbean Community, Common Market for Eastern and Southern Africa and European Union. There were four main aspects of merger control, namely establishing formal procedures, setting up an economic analysis framework, addressing institutional constraints and defining transactions for evaluation. Finally, the discussant highlighted useful areas for peer-to-peer learning, which types of mergers should be notified and examples of competition policy interventions at the macroeconomic level.

30. One delegate provided examples of the framework for international cooperation in merger review in Japan and of experiences in international merger cases, in particular a regional platform in East Asia and cooperation with and technical assistance provided to other agencies, particularly on merging procedures. Another delegate expressed gratitude to UNCTAD and countries that had provided assistance to Nicaragua, including Germany, Japan, Mexico and the United States. The representative of a regional group presented survey results that showed that more than 50 per cent of European Union merger cases required international cooperation and that even short-term informal cooperation led to the effective and efficient handling of cases. It was therefore important to immediately begin

contacting other agencies by telephone or e-mail. Finally, another delegate emphasized the importance of cooperation and that competition agencies should take full opportunity of cooperative activities available to them. However, given that confidentiality was a major issue in Africa, the delegate called upon African countries to address the issue of trust between agencies and enhance the exchange of information.

4. Session IV: Report of the work of the ad hoc expert meetings, including the proposal for the revision of the United Nations Guidelines for Consumer Protection

31. The Sixth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practice had invited UNCTAD to convene expert meetings on the interface between competition policy and consumer welfare. The first meeting (12 and 13 July 2012) had addressed the interface between competition and consumer policies, and concluded that the United Nations Guidelines for Consumer Protection should be assessed to identify how they could help markets work better and evaluate their relevance and validity. A report on the implementation of the Guidelines had been discussed at the next meeting (11 and 12 July 2013), which had created, to propose a revision of the Guidelines, working groups on the following topics: e-commerce (chaired by France); horizontal issues (chaired by Portugal); financial services (chaired by Malaysia); implementation of the Guidelines (chaired by Gabon); and other issues (chaired by Brazil and Germany). An additional meeting (7 July 2014) had discussed the role of competition law and policy in fostering sustainable development and trade and concluded that the international trading system depended on the existence of effective national competition policies. The outcome of the work of the groups had been compiled in a report on modalities for the revision of the Guidelines, considered by the final meeting (22 and 23 January 2015) along with a preliminary draft resolution on consumer protection. Informal consultations with experts and permanent missions in March and June 2015 had led to a final draft resolution on consumer protection for consideration by the Seventh Review Conference. The key issues contained in the resolution were revision of the Guidelines through the addition of new text, establishment of an Intergovernmental Group of Experts on Consumer Protection Law and Policy and convening of ad hoc expert meetings until the establishment of this Intergovernmental Group of Experts.

32. Proposed revisions to the Guidelines were presented by the chair of each working group. The Chair of the ad hoc expert meetings held in 2013 and 2015, which had undertaken the majority of consultations on the proposals, highlighted the engagement of over 100 member States throughout the process. The Chair of the Working Group on E-commerce presented proposals for the provisions on e-commerce (paragraphs 63–65), which encouraged member States to update and review their legislative and institutional frameworks to accommodate the special features of e-commerce to ensure a level of protection no less than the one offered in other forms of commerce.

33. The Chair of the Working Group on Horizontal Issues stated that the outcome of the group's work had an impact on all provisions in the Guidelines, including new provisions related to scope and definitions (paragraphs 2–3), general principles (paragraph 5), good business practices (paragraph 11) and interaction with competition policies (paragraph 24). The Chair presented new text for the provisions related to dispute resolution and redress (paragraphs 37–41).

34. The Chair of the Working Group on Financial Services presented proposals on ensuring adequate financial consumer protection and encouraging financial literacy and inclusion (paragraphs 66–68), and stressed the importance of these provisions in promoting sustainable and inclusive development.

35. The Chair of the Working Group on Implementation of the Guidelines presented proposals for additional provisions on an adequate national framework for consumer protection (paragraph 14), international cooperation (paragraphs 82–90) and, in particular, establishment of an Intergovernmental Group of Experts on Consumer Protection Law and Policy (paragraphs 95–99), based on the successful precedent of the Intergovernmental Group of Experts on Competition Law and Policy, established in 1980. The functions of the proposed Intergovernmental Group of Experts were in line with the Doha Mandate.

36. The Chairs of the Working Group on Other Issues reported on outcomes related to consumer privacy (paragraphs 5 (k), 11 (e) and 14 (g)), energy (paragraph 76), public utilities (paragraph 77) and tourism (paragraph 78). The Chairs thanked the delegates and experts for reaching a consensus on these issues and welcomed the proposal for periodic revision of the Guidelines, in order to update them as new issues emerged.

37. The presentations were followed by a debate and subsequent consensus on the revision of the Guidelines. Two procedural options were open to the Conference in recommending the adoption of the proposals. One option was to submit the adoption of the draft resolution on consumer protection and revised Guidelines to the General Assembly and at the same time request the Trade and Development Board of UNCTAD to establish an Intergovernmental Group of Experts on Consumer Protection Law and Policy. The other option, which had been endorsed by member States during informal consultations held on 4 June 2015, was to submit both the resolution and revised Guidelines and decision on the establishment of an Intergovernmental Group of Experts to the General Assembly. The established institutional procedures for resolutions being recommended to the General Assembly included in particular a statement of programme budget implications to be submitted by the secretariat. The draft resolution on consumer protection contained proposals for activities that required detailed analysis and a review of the level of resources required to implement them. The requirements resulting from the adoption of the draft resolution would be met from resources to be approved by the General Assembly.

38. Many delegates expressed their preference for the second option, with one delegate expressing reservations. There was consensus among delegates on the text of the Guidelines as revised and on the importance of adopting the revised Guidelines as soon as possible to address twenty-first century challenges in the marketplace. In light of the discussions, the UNCTAD secretariat proposed the following conclusions: universal support for the revised Guidelines; consensus on support for the creation of an Intergovernmental Group of Experts on Consumer Protection Law and Policy; and preference of the majority of member States that the resolution from the informal consultations on 4 June 2015 be submitted to the General Assembly. Delegates agreed with these conclusions. The secretariat also suggested to proceed as agreed informally on 4 June 2015.

5. Session V: Review of the implementation of the Set, including consultations on revised chapters I, IV, VIII, XI and XIII of the UNCTAD Model Law on Competition

39. The fifth session launched the discussion of the paper "Assessment of the application and implementation of the Set" (TD/RBP/CONF.8/2). The Set had been adopted 35 years previously and remained the only multilateral accepted framework on competition. In addition, the Set endorsed the preferential treatments of countries. At the national level, as at 2015, 122 countries had a competition law. Since the Sixth Review Conference in 2010, eight countries had adopted a new competition law. Many countries had also reformed their laws including, among others, Albania and Brazil. Finally, since 2010, the following 14 countries had undertaken voluntary peer reviews: Albania, Fiji, Mongolia, Namibia, Nicaragua, Pakistan, Papua New Guinea, the Philippines, Serbia, Seychelles, Ukraine, the United Republic of Tanzania, Zambia and Zimbabwe. The peer review process was dedicated to enhancing the quality and effectiveness of the competition

policy enforcement framework in member States. In this regard, the new methodology applied in the tripartite peer review of competition law and policy in the United Republic of Tanzania, Zambia and Zimbabwe was highlighted.

40. Ad hoc expert meetings on consumer protection had been held between 2012 and 2015, along with consultations on revision of the United Nations Guidelines for Consumer Protection. The annual meetings of the Intergovernmental Group of Experts on Competition Law and Policy were the main tool for advocating competition policy and the development dimension was a key aspect of the role of competition policy. The agreed conclusions of the consultations were implemented in the year following each meeting.

41. UNCTAD technical assistance and capacity-building included drafting competition and consumer policies, providing advisory services and facilitating voluntary peer reviews. The Competition and Consumer Protection in Latin America (COMPAL) capacity-building programme, entering its third phase, and a West African Economic and Monetary Union project were examples of success in regional cooperation and the peer-learning process. The COMPAL initiative continued to grow, and the term had been rebranded to refer to competition and consumer protection policies for all. The latest technical assistance project was COMPAL Global for the Middle East and North Africa. The project, with an initial term of four years and funded by the Swedish International Development Cooperation Agency, had five main objectives, namely to enhance competition and consumer protection in the region, provide assistance to the private sector, develop a regional strategy to adopt competition laws, respond to the specific needs of the countries involved and provide capacity-building activities. Finally, the UNCTAD Research Partnership Platform on Competition and Consumer Protection had been created in 2010 to support UNCTAD's research pillar. Its role was to provide and facilitate a global platform for research and action. The Platform had a wide variety of activities and a wide membership including, among others, non-governmental organizations, civil society and academia.

42. The UNCTAD Model Law on Competition, as a guide to drafting competition laws in developing countries, had been the reference point for many countries. The Model Law reflected the laws of member States and, as a network of laws from all regions and a depository of competition laws, served as the basis for the exchange of competition law information. The Model Law was regularly updated to reflect changes in competition laws and developments in the market. Its revision was guided by the need to introduce new elements from the competition laws of member States and new and revised laws, and to share best practices and case laws among member States. The last major revision had been undertaken during the Sixth Review Conference. Revisions had been undertaken in 2012 to chapter III on restrictive agreements or arrangements and chapter VIII on consumer protection. Consumer protection issues had been in discussion since then and, given current developments, it had been important to consider chapter VIII once more in 2015 (TD/RBP/CONF.8/L.3). Other current revisions were to chapter I on the objectives of the law (TD/RBP/CONF.8/L.1), chapter IV on the abuse of a dominant position (TD/RBP/CONF.8/L.2), chapter XI on sanctions and relief (TD/RBP/CONF.8/L.4) and chapter XIII on actions for damages (TD/RBP/CONF.8/L.5). Member States were invited to send their comments on the revised chapters by 31 August 2015.

6. Session VI: Capacity-building activities and an evaluation of UNCTAD voluntary peer reviews

43. The keynote speakers and discussants for the sixth session were from the Governments of Bulgaria, Indonesia, Latvia, Namibia, Nicaragua, Peru, Sweden, Switzerland and Zimbabwe and from the Advisory Group of Experts of COMPAL, Berwin Leighton Paisner, Organization for Economic Cooperation and Development and West African Economic and Monetary Union and an academic from the United States.

44. The session launched the discussion of two papers, "Capacity-building and technical assistance on competition and consumer protection law and policy: Review and outlook" (TD/RBP/CONF.8/7) and "Feedback for improving the efficiency of the application of UNCTAD voluntary peer reviews" (TD/RBP/CONF.8/10). The peer review process had, to date, provided competition authorities in 22 developing countries with an opportunity to undergo a process of self-evaluation. The session provided an overview of the process since its inception in 2005. Evaluation of the process would enable competition agencies and UNCTAD to identify areas of strength and weakness in their respective roles and where action was required.

45. Most discussants evaluated the peer review process positively and as beneficial, both to peer reviewed countries and as a platform to share experiences with other competition authorities. The discussants highly appreciated the technical assistance project proposals developed as part of peer reviews and follow-up activities. This aspect differentiated it from other reviews by making the recommendations practical and implementable. Some delegates of peer reviewed countries agreed that the recommendations were valuable and that implementation had been proceeding well, but that some activities could not be undertaken due to budget constraints or lack of support from other relevant agencies.

46. One discussant emphasized that peer reviews should consider the specific political and economic contexts of reviewed countries and another discussant added that it was necessary for reviewers to consult with country representatives to understand the entire economic framework. With regard to criteria for selecting a country, one discussant suggested that reviews should be conducted 5–10 years following establishment of a competition agency. A second review would be required after 10–20 years, for feedback on implementation of the recommendations made in the first review. Other discussants stressed that enforcement records should be considered, as well as the age of an agency, and highlighted in particular transparency, urgency and commitment as important criteria. Another discussant noted that there was no duplication between the UNCTAD peer reviews and the Organization for Economic Cooperation and Development mandatory peer reviews, and that the two organizations could create synergies in cooperating on following up on reviews. The role of peer reviewers in the process could be increased, as countries often learned more from peers than from experts.

47. Experiences gained by UNCTAD from capacity-building and technical assistance to developing and least developed countries were highlighted, especially under COMPAL in the last 12 years. One discussant emphasized that the COMPAL programme had greatly assisted Peru in moving the entire economy into more competitive markets. Another discussant stressed that the programme's success had come from its level of organization, strong support from UNCTAD and the donor country and Peru's commitment to implementing the recommendations.

48. Two discussants shared additional experiences with capacity-building and technical assistance provided by UNCTAD. For example, the peer review of competition law and policy Namibia in 2014 had identified capacity-building needs and the State had made improvements that included staff training, revisions of competition law and development of a long-term competition policy plan. Following the West African Economic and Monetary Union peer review in 2007, a memorandum of understanding had been signed with UNCTAD for cooperation on competition policy and economic policies to carry out institutional reform. One discussant highlighted as an example the success of a competition forum in Bulgaria, regularly organized since 2012 with UNCTAD, to assist countries in the Balkans in enhancing their capacities for implementing competition law. The discussants agreed on the need to encourage businesses, regardless of size and ownership (that is, public or private), to comply with competition law, although some countries did not have compliance programmes in their legal frameworks. The discussants emphasized the need

for regular communications with businesses through face-to-face meetings, workshops, media and publication of guidelines, to provide information on the benefits of compliance and penalties for violations, aiming to build mutual trust and respect. Finally, some discussants noted that agencies could more efficiently and effectively foster compliance by making advocacy efforts as well as by having strong enforcement and sanctions.

7. Bipartite voluntary peer review of competition law and policy in Fiji and Papua New Guinea

49. The bipartite voluntary peer review of competition law and policy in Fiji and Papua New Guinea was chaired by a delegate from Indonesia. Peer reviewers were from the Governments of India, Latvia, Namibia and Nicaragua.

50. The peer review started with a presentation of the main findings in the "Bipartite Voluntary Peer Review of Competition Law and Policy: Fiji and Papua New Guinea – Overview of Comparative Report" (TD/RBP/CONF.8/9) and "Bipartite Voluntary Peer Review of Competition Law and Policy: Fiji and Papua New Guinea – Comparative Report" (UNCTAD/DITC/CLP/2015/2). The presentation highlighted similarities between the two countries as developing, small and fragmented market economies. Both competition authorities had a wide mandate comprising competition, consumer protection and price regulation. The report had provided several recommendations on legal and institutional reform, including that the expansion of price regulation should be considered only after substantial investigation, with regular reviews to determine effectiveness and opportunities to revert to market mechanisms. The report had advised the proper consideration of amendments prior to their introduction, especially in areas in which there was little enforcement experience. Both jurisdictions were considering the criminalization of cartels, but this might be premature as potential disadvantages might outweigh deterrence advantages, due to the need for dual-track administrative and judicial procedures, which ultimately required higher burdens of proof and increased difficulty in operating leniency programmes. The report had suggested that both countries should strengthen the capacities of their judiciaries with regard to dominance of market power provisions, and had stated that the compulsory notification of mergers was not needed, as the small size of both jurisdictions ensured that significant mergers were known to the authorities without notification. With regard to enforcement, the report had advised expanding advocacy activities for businesses and consumers, through vibrant websites to increase awareness, emphasize risks and increase compliance. In particular, court enforcement in Papua New Guinea was a challenge, and it was therefore advisable to train the judiciary. Finally, the report had stated that it was important for the authorities to focus on a few key objectives, to ensure the fulfilment of core mandates, and had called for an increase in resources allocated to competition and for both countries to strengthen their ties informally, for example through joint training activities.

51. Fiji thanked UNCTAD for reviewing competition policy in Fiji and Papua New Guinea, as the first countries in the South Pacific to undergo such a review, and stressed commitment to reviewing the mandate of the competition authority to increase the country's competitiveness and introducing a comprehensive competition policy.

52. Papua New Guinea reiterated the support of the Government to the work of the competition authority and presented the main features of the legal and institutional structure of competition in the State, emphasizing that in implementing the recommendations of the peer review, the State would focus on those that might yield the highest impact.

53. During the Fiji question-and-answer session, the need for international cooperation in investigating cartel cases was raised. Fiji stated that, to date, no enforcement action had taken place, but that capacity-building had begun to prepare for future action, particularly as Fiji had few competitors in a small economy with numerous trade associations.

With regard to support given by the Government to the competition authority, Fiji gave a positive response, noting a continuously growing caseload. With regard to the difficulties in balancing competition and price regulation, Fiji stated that the applicable scope of price regulation had been gradually reduced, while economic analysis from competition perspectives would play a more important role in enforcement across most sectors. Finally, with regard to retaining skilled staff, Fiji noted that talented people were retained through provision of attractive salaries, to maintain competitiveness with the private sector.

54. During the Papua New Guinea question-and-answer session, Papua New Guinea stated that a level playing field between State-owned companies and other businesses was ensured in the country. Papua New Guinea had initiated reform in the State-owned business regulatory system, and the results would guide future actions. With regard to links to consumer associations, Papua New Guinea stated that the establishment of consumer associations would be helpful for competition and consumer protection enforcement, taking into account the volume of consumer complaint cases received each year. Finally, with regard to housing competition and consumer protection within one institution, Papua New Guinea stated that these two policies complemented each other, as the former addressed the market and the latter redressed information asymmetry.

55. Fiji and Papua New Guinea were given the opportunity to ask specific questions of other competition authorities, with a view to benefiting from experiences in other countries. Questions posed related to practical experiences in the division of mandates, settlements and priorities for enforcement. The secretariat presented a proposal for technical assistance projects for both jurisdictions, to address the peer review recommendations, whose overall goal was to achieve a better business environment and a well-functioning market economy. Finally, both Fiji and Papua New Guinea expressed agreement with the recommendations and thanked UNCTAD for its guidance, expressing the need to maintain the momentum of implementing the recommendations.

8. Voluntary peer review of competition law and policy in Albania

56. The voluntary peer review of competition law and policy in Albania was chaired by a delegate from the Dominican Republic. Peer reviewers were from the Governments of Chile, Hungary, Italy and the Philippines.

57. The peer review started with a presentation of the main findings in the "Voluntary Peer Review of Competition Law and Policy: Albania – Overview" (TD/RBP/CONF.8/8) and "Voluntary Peer Review of Competition Law and Policy: Albania – Full Report" (UNCTAD/DITC/CLP/2015/1). The presentation highlighted the modern legal and institutional framework for competition in Albania, which was continuously being aligned with the latest developments in European Union competition law. National law allowed for an effective competition policy with respect to all sectors of the economy. The report had noted that success depended on continuous efforts by the authority to develop the competition culture of economic operators and help national policymakers refrain from taking measures with adverse effects on competition. With regard to advocacy, the report had underlined the beneficial effects of the authority's involvement in regulatory reforms and recommendations to sector regulators on the functioning of relevant markets. With regard to anti-cartel measures, the report had stressed the need to enhance the national leniency policy and increase coordination with the relevant authorities on public procurement and anticorruption policies. The report had emphasized that improving administrative capacity and continuous training of the authority's staff were essential for effective implementation of national competition policy. In addition, the uniqueness of the authority in applying private litigation at the individual level, having developed detailed procedural rules for initiating proceedings, had been highlighted. Several recommendations on legal and institutional reform had been provided, including for creating institutional

capacity for effective State aid control and considering abolishing the notification regime for agreements between undertakings. The report had advised of the need to increase public awareness of private competition enforcement and enhance the competition culture of economic operators. Finally, the report had recommended training activities for authority staff and judges and the creation of a chief economist post.

58. Albania thanked UNCTAD for reviewing the Albanian competition environment and stated that the review had been timely, given the tenth anniversary of the authority in 2014. As a young authority with limited experience, the authority had faced many challenges in implementing competition law, but great efforts in advocacy and enforcement had created improvements.

59. During the question-and-answer session, the need for promoting private enforcement to seek compensation for damages from anticompetitive practices was raised, among other issues. Albania noted that no private enforcement had taken place to date, but that such enforcement had been encouraged in various ways, including by informing concerned parties of the possibility of compensation and holding meetings with law firms, consumer associations and universities. Further, the authority had a close relationship with the judges' training institute and had co-organized several training workshops for both the administrative and district courts. With regard to the independence of the authority, Albania stated that it was the most independent among government bodies and, as transparency and due process in decision-making by the authority were guaranteed by law, there had been no complaints regarding independence. Although the authority and secretariat were located in the same building, they were entirely separate and did not unduly influence one another. With regard to focusing on cases with broad impacts to increase awareness of the benefits of competition, Albania provided examples of successful cases such as on the abuse of dominant position by mobile telephone service providers and bid rigging in the public procurement of security services. Albania emphasized the protection of small and medium-sized enterprises against the abuse of dominant position by large companies, as such enterprises accounted for 95 per cent of businesses in the Albanian economy. There had been no leniency applications since the introduction of the programme in 2004, and Albania noted that there remained a tendency to regard leniency as a form of spying, due to the history of the country as a centralized economy and a lack of competition culture. However, Albania continued to promote leniency through a combination of workshops, meetings and media. Albania had recently drafted a new leniency programme and was in discussions with stakeholders on how to make it more workable.

60. Albania was given the opportunity to ask specific questions of other competition authorities, with a view to benefiting from experiences in other countries. Questions posed related to agency independence, enforcement of advocacy, chief economist positions and public sector engagement. The secretariat presented a proposal for a technical assistance project for Albania, to address the peer review recommendations, whose overall goal was to achieve a better business environment and well-functioning market economy. The role of the "One United Nations" initiative in providing funding for follow-up activities was highlighted. Finally, Albania expressed agreement with the recommendations and thanked UNCTAD for its guidance, expressing the need to maintain the momentum of implementing the recommendations.

9. High-level round table: Role of competition policy in promoting sustainable and inclusive growth and development

61. The discussants for the high-level round table were from the Governments of Austria, Mexico and Spain and from Consumer Unity and Trust Society International and academics from the United States.

62. The session launched the discussion of the paper "The role of competition policy in promoting sustainable and inclusive growth" (TD/RBP/CONF.8/6).

63. The keynote speaker emphasized that in the alleviation of extreme poverty, domestic markets with competition law could be a solution rather than a problem. Competition law could make markets work for people without power as it could complement aggregate wealth law. Competition law was an outsider law in that it regulated abusive restraints that fenced out outsiders and could help poor people access markets and enjoy the benefits. The speaker provided examples of how competition could support the development of agricultural policies such as addressing international input cartels and protecting them from monopsonistic strategies, such as contracts that kept out competitors, oppressive contract terms and the abuse of patent rights. In this regard, the speaker stressed that enforcers seldom needed exemptions to help consumers and markets, and exemption could not be justified by efficiency only. Enforcers should first undertake competition analysis and then consider exemptions.

65. The first discussant stated that competition agencies played an important role in increasing the production of quality goods and creating jobs, and provided a comparative example of economic growth in the United States and European Union. Factors such as institutional and technological advancement and economies of scale were crucial to boosting growth in the United States. Competition law could contribute to economic growth and reduce inequality, provided that a mechanism was in place to protect small and medium-sized enterprises from larger conglomerates. Finally, the discussant stressed that the independence and accountability of agencies was of paramount importance.

66. The next discussant highlighted that competition policy introduced more competition into markets, which was an incentive for innovation that brought about higher productivity and economic growth. A large number of empirical studies confirmed a robust and positive link between product market competition and productivity growth. However, other factors such as regulatory reform, openness to international trade, strength of rule of law, efficient governance structures, transparency and procedures also played an important role. In particular, competition had long-lasting effects on economic performance and there was a positive impact from competition-enhancing policies that could not be measured primarily by static efficiency gains.

67. The following discussant stressed that competition reforms should be designed to strengthen evident links with economic growth, industrialization and job creation. The role of practitioners and scholars was significant, and they should consider the less evident links between competition reforms and, among others, access to essential services and women's empowerment. The discussant highlighted the Consumer Unity and Trust Society International project on Competition Reforms in Key Markets for Enhancing Social and Economic Welfare in Developing Countries. The development of sustainable development goals could be used as an opportunity to demonstrate how competition reforms could lead to tangible and measurable impacts, while the challenge was to preserve and perhaps elevate the importance of competition and regulatory reforms in the post-2015 development agenda and identify the benefits of an effective competition regime for social, economic and environmental sustainable development.

68. Another discussant highlighted several empirical studies demonstrating that competition led to innovation and productivity growth. In Mexico, for example, increased efficiency in the short term could be identified following import competition caused by trade liberalization. The poor lost greater consumer well-being due to competition problems than the rich, and strengthening competition therefore had the potential to increase family incomes.

69. Questions and comments from delegates initiated an interactive debate. One delegate noted that the powers of cartel members were greater than those of competition authorities, particularly in the agricultural sector. A call for international support in this regard was made, emphasizing that UNCTAD should have a prominent role.

III. Organizational matters

A. Opening of the Conference
(Agenda item 1)

70. The Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices was opened on 6 July 2015 by Mr. Theodor Thanner, Vice-president of the Sixth Review Conference (Austria).

B. Election of the President and other officers
(Agenda item 2)

71. At its opening plenary meeting, the Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices elected Mr. Vincent Martenet (Switzerland) President of the Conference.

72. The Conference elected five vice-presidents and a Rapporteur to serve on the Bureau of the Conference at its seventh session. Accordingly, the elected Bureau was as follows:

President:	Mr. Vincent Martenet (Switzerland)
Vice-presidents:	Mr. Hebert Eduardo Tasano Velaochaga (Peru)
	Ms. Vadiyya Khalil (Pakistan)
	Mr. Francis Kariuki (Kenya)
	Mr. Sothi Rachagan (Malaysia)
	Mr. Handong Zhang (China)
Rapporteur:	Ms. Thabisile Langa (Swaziland)

73. Following established practice, the Conference agreed that the regional coordinators would be fully associated with the work of the Bureau of the Conference.

C. Adoption of the rules of procedure
(Agenda item 3)

74. Also at its opening plenary meeting, the Conference adopted the rules of procedure for the session contained in TD/RBP/CONF.7/9.

D. Adoption of the agenda and organization of the work of the Conference
(Agenda item 4)

75. Also at its opening plenary meeting, the Conference adopted the provisional agenda for the session contained in TD/RBP/CONF.8/1. The agenda was thus as follows:

1. Opening of the Conference.

2. Election of the President and other officers.

3. Adoption of the rules of procedure.

4. Adoption of the agenda and organization of work of the Conference.

5. Credentials of the representatives to the Conference:

(a) Appointment of a Credentials Committee;

(b) Report of the Credentials Committee.

6. Review of all aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices:

(a) Review of application and implementation of the Set;

(b) Consideration of proposals for the improvement and further development of the Set, including international cooperation in the field of control of restrictive business practices.

7. Other business.

8. Adoption of the report of the Conference.

E. Credentials of the representatives to the Conference

(Agenda item 5)

(a) Appointment of a Credentials Committee

76. Also at its opening plenary meeting, the Conference agreed that the Bureau of the Conference would assume the functions of a Credentials Committee and would report to the Conference accordingly.

(b) Report of the Credentials Committee

77. At its closing plenary meeting on 10 July 2015, the Conference took note of the oral report of the Rapporteur on the work of the Credentials Committee, whereby the credentials of States participating in the Conference were found to be in due and proper form, and adopted the report of the Credentials Committee.

F. Other business

(Agenda item 7)

78. Also at its closing plenary meeting, the Conference adopted a provisional agenda for the fifteenth session of the Intergovernmental Group of Experts on Competition Law and Policy (see annex I).

G. Adoption of the report of the Conference

(Agenda item 8)

79. Also at its closing plenary meeting, the Conference authorized the Rapporteur to finalize the report on its seventh session.

Annex I

Provisional agenda for the fifteenth session of the Intergovernmental Group of Experts on Competition Law and Policy

July 2016

Palais des Nations, Geneva

1. Election of officers.

2. Adoption of the agenda and organization of work.

3. (a) Examining the interface between the objectives of competition policy and intellectual property;

(b) Enforcing competition policy in the retail sector;

(c) Enhancing legal certainty in the relationship between competition authorities and judiciaries;

(d) Strengthening private sector capacities for competition compliance.

4. Provisional agenda for the sixteenth session of the Intergovernmental Group of Experts.

5. Adoption of the report of the Intergovernmental Group of Experts.

Annex II

Attendance*

1. Representatives from the following States members of UNCTAD attended the Conference:

Albania
Algeria
Austria
Bahrain
Benin
Bhutan
Botswana
Brazil
Bulgaria
Burkina Faso
Burundi
Cambodia
Chile
China
Colombia
Congo
Costa Rica
Democratic Republic of the Congo
Dominican Republic
Egypt
El Salvador
Ethiopia
Fiji
France
Gabon
Germany
Guatemala
Hungary
India
Indonesia
Iran (Islamic Republic of)
Israel
Italy
Japan
Jordan
Kazakhstan
Kenya
Lao People's Democratic Republic
Latvia
Luxembourg
Malawi
Malaysia
Mauritius
Mexico
Morocco
Mozambique
Namibia
Netherlands
Nicaragua
Nigeria
Oman
Pakistan
Panama
Papua New Guinea
Peru
Philippines
Portugal
Qatar
Republic of Korea
Republic of Moldova
Romania
Russian Federation
Saudi Arabia
Senegal
Seychelles
Somalia
South Africa
Spain
Sudan
Swaziland
Sweden
Switzerland
Togo
Tunisia
Ukraine
United Republic of Tanzania
United States of America
Uruguay
Viet Nam
Zambia
Zimbabwe

* For the list of participants, see TD/RBP/CONF.8/INF.1.

2. The following non-member observer State was represented at the Conference:

State of Palestine

3. The following intergovernmental organizations were represented at the Conference:

Caribbean Community

Common Market for Eastern and Southern Africa

Economic Community of West African States

Eurasian Economic Commission

European Union

League of Arab States

Organization for Economic Cooperation and Development

Organization of Islamic Cooperation

South Centre

West African Economic and Monetary Union

4. The following specialized agencies and related organizations were represented at the Conference:

World Bank

World Trade Organization

5. The following non-governmental organizations were represented at the Conference:

General category

Consumers International

Consumer Unity and Trust Society International

International Network for Standardization of Higher Education Degrees

United Nations TD/RBP/CONF.8/11/Add.1*

United Nations Conference on Trade and Development

Distr.: General
9 September 2015

English only

Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices
Geneva, 6–10 July 2015

Report of the Seventh United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

Held at the Palais des Nations, Geneva, from 6 to 10 July 2015

Addendum

* Reissued for technical reasons.

GE.15-15367(E)

Please recycle

Draft resolution on consumer protection for consideration by the General Assembly

The General Assembly,

Recalling Economic and Social Council resolution 1981/62 of 23 July 1981, in which the Council requested the Secretary-General to continue consultations on consumer protection with a view to elaborating a set of general guidelines for consumer protection, taking particular account of the needs of the developing countries,

Recalling further General Assembly resolution 38/147 of 19 December 1983, on consumer protection,

Noting Economic and Social Council resolution 1984/63 of 26 July 1984, General Assembly resolution 39/248 of 16 April 1985 and Economic and Social Council resolution 1999/7 of 26 July 1999,[1]

Recalling General Assembly resolution 65/142 of 2 February 2011, which welcomed the convening of the Sixth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices,

Taking note of the mandate entrusted to the United Nations Conference on Trade and Development at its thirteenth session in Doha to conduct analysis and research and help all Member States and, in particular, developing countries and countries with economies in transition, to formulate and implement competition and consumer protection policies, promote the sharing of best practices and carry out peer reviews in regard to the implementation of such policies,[2]

Recalling the objectives formulated in the United Nations Millennium Declaration,[3] notably the Millennium Development Goals, the reaffirmation these received in the 2005 World Summit Outcome[4] and the outcome document of the High-level Plenary Meeting of the General Assembly on the Millennium Development Goals at its sixty-fifth session,[5] in particular in the pursuit of development and the eradication of poverty, and their upcoming revision as sustainable development goals,

Noting that this year marks the thirtieth anniversary of the adoption of the guidelines for consumer protection as a thematic issue and acknowledging the enduring need for Member States to further strengthen the protection of consumers and that the General Assembly remains committed to addressing the impact of development in markets and technology on consumers,

Acknowledging that although significant progress has been achieved with respect to the protection of consumers at the normative level since the adoption of the guidelines for consumer protection in 1985, this progress has not been consistently translated into more effective and better-coordinated protection efforts in all countries and across all areas of commerce,

Reaffirming that the guidelines are a valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems, and for assisting interested Member States in formulating and

[1] E/1999/INF/2/Add.2.
[2] TD/500/Add.1.
[3] A/RES/55/2.
[4] A/RES/60/1.
[5] A/RES/65/1.

enforcing domestic and regional laws, rules and regulations that are suitable to their own economic, social and environmental circumstances, as well as for promoting international enforcement cooperation among Member States and encouraging the sharing of experiences in protecting consumers,

Recognizing that, despite the diversity of mechanisms and legal cultures that exist across Member States, consensus exists on the need for common principles that establish the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems,

Believing that a robust legal and regulatory framework for consumer protection, including effective dispute resolution and redress mechanisms and the ability of consumer protection enforcement authorities to cooperate in obtaining redress, where available, across borders for consumers harmed by fraudulent and deceptive commercial practices, serves an important public interest, contributing to economic dynamism and consumer welfare,

Recognizing that Member States have a common interest in promoting and protecting consumer privacy and the global free flow of information,

Considering that electronic commerce, which should be understood to include mobile commerce, has become increasingly relevant to consumers worldwide and that the opportunities it offers should be harnessed to help facilitate economic development and growth based on emerging network technologies with computers, mobile telephones and connected devices that promote consumer welfare,

Considering that Member States, businesses, consumers and their representatives should devote special attention to the development of effective consumer protection in electronic commerce and that certain consumer protection issues, such as applicable law and jurisdiction, may be addressed most effectively through international consultation and cooperation,

Recognizing that consumer confidence and trust in a well-functioning market for financial services promotes financial stability, growth, efficiency and innovation over the long term and that the recent financial crisis places a renewed focus on consumer protection calling for effective regulatory, supervisory and enforcement frameworks in the financial sector, to contribute to the welfare of consumers,

Recognizing the importance of combating substandard, falsely labelled and counterfeit products that pose threats to the health and safety of consumers and to the environment and also decrease consumer confidence in the marketplace,

Recognizing the value of coordination and partnership with established multilateral organizations that focus on consumer protection in order to maximize the benefits to consumers and avoid duplicating efforts,

1. *Decides* to adopt the revised guidelines for consumer protection annexed to the present resolution, of which it forms an integral part;

2. *Requests* the Secretary-General to disseminate the guidelines to Member States and other interested parties;

3. *Requests* all organizations of the United Nations system that elaborate guidelines and related documents on specific areas relevant to consumer protection to distribute them to the appropriate bodies of individual States;

4. *Recommends* that Member States implement this resolution and the guidelines as set out in the annex;

5. *Requests* the United Nations Conference on Trade and Development

secretariat to exchange information on progress and experiences regarding the implementation of this resolution, review that information, and report to the General Assembly on this subject on the occasion of the Eighth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices;

6. *Further requests* the United Nations Conference on Trade and Development to promote the guidelines and to encourage interested Member States to create awareness of the many ways in which Member States, businesses and civil society can promote consumer protection in the provision of public and private goods and services;

7. *Decides* to establish an Intergovernmental Group of Experts on Consumer Protection Law and Policy within the framework of an existing Commission of the Trade and Development Board of the United Nations Conference on Trade and Development, to operate until the Ninth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, which will review its work and consider the renewal of its mandate;

8. *Decides* that the necessary resources should be made available within the United Nations Conference on Trade and Development to carry out the tasks embodied in the revised guidelines through the reallocation of existing resources and/or the use of extra-budgetary resources from voluntary contributions;

9. *Requests* the Secretary-General to continue to promote effective implementation of the guidelines by Member States, businesses and civil society.

Annex

Guidelines for consumer protection

I. Objectives

1. Taking into account the interests and needs of consumers in all Member States, particularly those in developing countries; recognizing that consumers often face imbalances in economic terms, educational levels, and bargaining power; and bearing in mind that consumers should have the right of access to non-hazardous products, as well as the right to promote just, equitable and sustainable economic and social development and environmental protection, these guidelines for consumer protection have the following objectives:

(a) To assist countries in achieving or maintaining adequate protection for their population as consumers.

(b) To facilitate production and distribution patterns responsive to the needs and desires of consumers.

(c) To encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers.

(d) To assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers.

(e) To facilitate the development of independent consumer groups.

(f) To further international cooperation in the field of consumer protection.

(g) To encourage the development of market conditions which provide consumers with greater choice at lower prices.

(h) To promote sustainable consumption.

II. Scope of application

2. These guidelines apply to business-to-consumer transactions, including the provision of goods and services by State-owned enterprises to consumers. For the purpose of these guidelines, consumer protection policies include Member States' laws, regulations, rules, frameworks, procedures, decisions, mechanisms and programmes, as well as private sector standards and recommendations that protect consumer rights and interests and promote consumer welfare.

3. For the purpose of these guidelines, the term "consumer" generally refers to a natural person, regardless of nationality, acting primarily for personal, family or household purposes, while recognizing that Member States may adopt differing definitions to address specific domestic needs.

III. General principles

4. Member States should develop, strengthen or maintain a strong consumer protection policy, taking into account the guidelines set out below and relevant international

agreements. In so doing, each Member State must set its own priorities for the protection of consumers in accordance with the economic, social and environmental circumstances of the country, and the needs of its population, bearing in mind the costs and benefits of proposed measures.

5. The legitimate needs which the guidelines are intended to meet are the following:

(a) Access of consumers to essential goods and services.

(b) The protection of vulnerable and disadvantaged consumers.

(c) The protection of consumers from hazards to their health and safety.

(d) The promotion and protection of the economic interests of consumers.

(e) Access of consumers to adequate information to enable them to make informed choices according to individual wishes and needs.

(f) Consumer education, including education on the environmental, social and economic consequences of consumer choice.

(g) Availability of effective consumer dispute resolution and redress.

(h) Freedom to form consumer and other relevant groups or organizations and the opportunity of such organizations to present their views in decision-making processes affecting them.

(i) The promotion of sustainable consumption patterns.

(j) A level of protection for consumers using electronic commerce that is not less than that afforded in other forms of commerce.

(k) The protection of consumer privacy and the global free flow of information.

6. Unsustainable patterns of production and consumption, particularly in industrialized countries, are the major cause of the continued deterioration of the global environment. All Member States should strive to promote sustainable consumption patterns; developed countries should take the lead in achieving sustainable consumption patterns; developing countries should seek to achieve sustainable consumption patterns in their development process, having due regard to the principle of common but differentiated responsibilities. The special situation and needs of developing countries in this regard should be fully taken into account.

7. Policies for promoting sustainable consumption should take into account the goals of eradicating poverty, satisfying the basic human needs of all members of society and reducing inequality within and between countries.

8. Member States should provide or maintain adequate infrastructure to develop, implement and monitor consumer protection policies. Special care should be taken to ensure that measures for consumer protection are implemented for the benefit of all sectors of the population, particularly the rural population and people living in poverty.

9. All enterprises should obey the relevant laws and regulations of the countries in which they do business. They should also conform to the appropriate provisions of international standards for consumer protection to which the competent authorities of the country in question have agreed. (Hereinafter references to international standards in the guidelines should be viewed in the context of this paragraph.)

10. The potential positive role of universities and public and private enterprises in research should be considered when developing consumer protection policies.

IV. Principles for good business practices

11. The principles that establish benchmarks for good business practices for conducting online and offline commercial activities with consumers are as follows:

(a) Fair and equitable treatment. Businesses should deal fairly and honestly with consumers at all stages of their relationship, in order that it is an integral part of the business culture. Businesses should avoid practices that harm consumers, particularly with respect to vulnerable and disadvantaged consumers.

(b) Commercial behaviour. Businesses should not subject consumers to illegal, unethical, discriminatory or deceptive practices, such as abusive marketing tactics, abusive debt collection or other improper behaviour that may pose unnecessary risks or harm consumers. Businesses and their authorized agents should have due regard for the interests of consumers and responsibility for upholding consumer protection as objectives.

(c) Disclosure and transparency. Businesses should provide complete, accurate and not misleading information regarding the goods and services, terms, conditions, applicable fees and final costs, to enable consumers to take informed decisions. Businesses should ensure easy access to this information, especially to the key terms and conditions, regardless of the means of technology used.

(d) Education and awareness raising. Businesses should, as appropriate, develop programmes and mechanisms to assist consumers to develop the knowledge and skills necessary to understand risks, including financial risks, to take informed decisions and to access competent and professional advice and assistance, preferably from an independent third party, when needed.

(e) Protection of privacy. Businesses should protect the privacy of consumers through a combination of appropriate control, security, transparency and consent mechanisms related to the collection and use of their personal data.

(f) Consumer complaints and disputes. Businesses should make available complaints-handling mechanisms that provide consumers with expeditious, fair, transparent, inexpensive, accessible and effective dispute resolution without unnecessary costs or burdens. Businesses should consider subscribing to domestic and international standards pertaining to internal complaints handling, alternative dispute resolution services and customer satisfaction codes.

V. Guidelines

12. The following guidelines should apply both to home-produced goods and services and to imports.

13. In applying any procedures or regulations for consumer protection, due regard should be given to ensuring that they do not become barriers to international trade and that they are consistent with international trade obligations.

A. National policies for consumer protection

14. Member States should establish consumer protection policies that encourage the following:

(a) Good business practices.

(b) Clear and timely information, to enable consumers to contact businesses

easily, and to enable regulatory and law enforcement authorities to identify and locate them. This may include information such as the identity of a business, its legal name and the name under which it trades, its principal geographic address, website and e-mail address or other means of contact, its telephone number and its government registration or licence numbers.

(c) Clear and timely information regarding the goods or services offered by businesses and the terms and conditions of relevant transactions.

(d) Clear, concise and easy to understand contract terms that are fair.

(d) A transparent process for the confirmation, cancellation, return and refund of transactions.

(e) Secure payment mechanisms.

(f) Fair, affordable and expeditious dispute resolution and redress.

(g) Consumer privacy and data security.

(h) Consumer and business education.

15. Member States should work towards ensuring that consumer protection enforcement agencies have the necessary human and financial resources to promote effective compliance and to obtain or facilitate redress for consumers in appropriate cases.

B. Physical safety

16. Member States should adopt or encourage the adoption of appropriate measures, including legal systems, safety regulations, national or international standards, voluntary standards and the maintenance of safety records to ensure that products are safe for either intended or normally foreseeable use.

17. Appropriate policies should ensure that goods produced by manufacturers are safe for either intended or normally foreseeable use. Those responsible for bringing goods to the market, in particular suppliers, exporters, importers, retailers and the like (hereinafter referred to as "distributors"), should ensure that while in their care these goods are not rendered unsafe through improper handling or storage and that while in their care they do not become hazardous through improper handling or storage. Consumers should be instructed in the proper use of goods and should be informed of the risks involved in intended or normally foreseeable use. Vital safety information should be conveyed to consumers by internationally understandable symbols wherever possible.

18. Appropriate policies should ensure that if manufacturers or distributors become aware of unforeseen hazards after products are placed on the market, they should notify the relevant authorities and, as appropriate, the public without delay. Member States should also consider ways of ensuring that consumers are properly informed of such hazards.

19. Member States should, where appropriate, adopt policies under which, if a product is found to be seriously defective and/or to constitute a substantial and severe hazard even when properly used, manufacturers and/or distributors should recall it and replace or modify it, or substitute another product for it; if it is not possible to do this within a reasonable period of time, the consumer should be adequately compensated.

C. Promotion and protection of consumers' economic interests

20. Member State policies should seek to enable consumers to obtain optimum benefit from their economic resources. They should also seek to achieve the goals of satisfactory production and performance standards, adequate distribution methods, fair business practices, informative marketing and effective protection against practices which could adversely affect the economic interests of consumers and the exercise of choice in the market place.

21. Member States should intensify their efforts to prevent practices which are damaging to the economic interests of consumers through ensuring that manufacturers, distributors and others involved in the provision of goods and services adhere to established laws and mandatory standards. Consumer organizations should be encouraged to monitor adverse practices, such as the adulteration of foods, false or misleading claims in marketing and service frauds.

22. Member States should develop, strengthen or maintain, as the case may be, measures relating to the control of restrictive and other abusive business practices which may be harmful to consumers, including means for the enforcement of such measures. In this connection, Member States should be guided by their commitment to the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices adopted by the General Assembly in resolution 35/63 of 5 December 1980.

23. Member States should adopt or maintain policies that make clear the responsibility of the producer to ensure that goods meet reasonable demands of durability, utility and reliability, and are suited to the purpose for which they are intended, and that the seller should see that these requirements are met. Similar policies should apply to the provision of services.

24. Member States should encourage fair and effective competition in order to provide consumers with the greatest range of choice among products and services at the lowest cost. Member States should ensure that their consumer protection policies are not used to protect domestic businesses from competition or applied unfairly.

25. Member States should, where appropriate, see to it that manufacturers and/or retailers ensure adequate availability of reliable after-sales service and spare parts.

26. Consumers should be protected from such contractual abuses as one-sided standard contracts, exclusion of essential rights in contracts and unconscionable conditions of credit by sellers.

27. Promotional marketing and sales practices should be guided by the principle of fair treatment of consumers and should meet legal requirements. This requires the provision of the information necessary to enable consumers to take informed and independent decisions, as well as measures to ensure that the information provided is accurate.

28. Member States should encourage all concerned to participate in the free flow of accurate information on all aspects of consumer products.

29. Consumer access to accurate information about the environmental impact of products and services should be encouraged through such means as product profiles, environmental reports by industry, information centres for consumers, voluntary and transparent eco-labelling programmes and product information hotlines.

30. Member States, in close collaboration with manufacturers, distributors and consumer organizations, should take measures regarding misleading environmental claims or information in advertising and other marketing activities. The development of appropriate

advertising codes and standards for the regulation and verification of environmental claims should be encouraged.

31. Member States should, within their own national context, encourage the formulation and implementation by businesses, in cooperation with consumer organizations, of codes of marketing and other business practices to ensure adequate consumer protection. Voluntary agreements may also be established jointly by businesses, consumer organizations and other interested parties. These codes should receive adequate publicity.

32. Member States should regularly review legislation pertaining to weights and measures and assess the adequacy of the machinery for its enforcement.

D. Standards for the safety and quality of consumer goods and services

33. Member States should, as appropriate, formulate or promote the elaboration and implementation of standards, voluntary and other, at the national and international levels for the safety and quality of goods and services and give them appropriate publicity. National standards and regulations for product safety and quality should be reviewed from time to time, in order to ensure that they conform, where possible, to generally accepted international standards.

34. Where a standard lower than the generally accepted international standard is being applied because of local economic conditions, every effort should be made to raise that standard as soon as possible.

35. Member States should encourage and ensure the availability of facilities to test and certify the safety, quality and performance of essential consumer goods and services.

E. Distribution facilities for essential consumer goods and services

36. Member States should, where appropriate, consider:

(a) Adopting or maintaining policies to ensure the efficient distribution of goods and services to consumers; where appropriate, specific policies should be considered to ensure the distribution of essential goods and services where this distribution is endangered, as could be the case particularly in rural areas. Such policies could include assistance for the creation of adequate storage and retail facilities in rural centres, incentives for consumer self-help and better control of the conditions under which essential goods and services are provided in rural areas.

(b) Encouraging the establishment of consumer cooperatives and related trading activities, as well as information about them, especially in rural areas.

F. Dispute resolution and redress

37. Member States should encourage the development of fair, effective, transparent and impartial mechanisms to address consumer complaints, through administrative, judicial and alternative dispute resolution, including for cross-border cases. Member States should establish or maintain legal and/or administrative measures to enable consumers or, as appropriate, relevant organizations to obtain redress through formal or informal procedures that are expeditious, fair, transparent, inexpensive and accessible. Such procedures should take particular account of the needs of vulnerable and disadvantaged consumers. Member States should provide consumers with access to remedies that do not impose a cost, delay or

undue burden on the economic value at stake and at the same time do not impose excessive or undue burdens on society and businesses.

38. Member States should encourage all businesses to resolve consumer disputes in an expeditious, fair, transparent, inexpensive, accessible and informal manner, and to establish voluntary mechanisms, including advisory services and informal complaints procedures, which can provide assistance to consumers.

39. Information on available redress and other dispute-resolving procedures should be made available to consumers. Access to dispute resolution and redress mechanisms, including alternative dispute resolution, should be enhanced, particularly in cross-border disputes.

40. Member States should ensure that collective resolution procedures are expeditious, fair, transparent, inexpensive and accessible to both consumers and businesses, including those pertaining to overindebtedness and bankruptcy cases.

41. Member States should cooperate with businesses and consumer groups in furthering the understanding of consumers and businesses of how to avoid disputes, of dispute resolution and redress mechanisms available to consumers and of where consumers may file complaints.

G. Education and information programmes

42. Member States should develop or encourage the development of general consumer education and information programmes, including information on the environmental impacts of consumer choices and behaviour and the possible implications, including benefits and costs, of changes in consumption, bearing in mind the cultural traditions of the people concerned. The aim of such programmes should be to enable people to act as discriminating consumers, capable of making an informed choice of goods and services, and conscious of their rights and responsibilities. In developing such programmes, special attention should be given to the needs of vulnerable and disadvantaged consumers, in both rural and urban areas, including low-income consumers and those with low or non-existent literacy levels. Consumer groups, businesses and other relevant organizations of civil society should be involved in these educational efforts.

43. Consumer education should, where appropriate, become an integral part of the basic curriculum of the educational system, preferably as a component of existing subjects.

44. Consumer education and information programmes should cover such important aspects of consumer protection as the following:

(a) Health, nutrition, prevention of food-borne diseases and food adulteration

(b) Product hazards

(c) Product labelling

(d) Relevant legislation, how to access dispute resolution mechanisms and obtain redress, and agencies and organizations for consumer protection

(e) Information on weights and measures, prices, quality, credit conditions and availability of basic necessities

(f) Environmental protection

(g) Electronic commerce

(h) Financial services

(g) Efficient use of materials, energy and water

45. Member States should encourage consumer organizations and other interested groups, including the media, to undertake education and information programmes, including on the environmental impacts of consumption patterns and on the possible implications, including benefits and costs, of changes in consumption, particularly for the benefit of low-income consumer groups in rural and urban areas.

46. Businesses should, where appropriate, undertake or participate in factual and relevant consumer education and information programmes.

47. Bearing in mind the need to reach rural consumers and illiterate consumers, Member States should, as appropriate, develop or encourage the development of consumer information programmes in the mass media, or through other delivery channels that reach such consumers.

48. Member States should organize or encourage training programmes for educators, mass media professionals and consumer advisers, to enable them to participate in carrying out consumer information and education programmes.

H. Promotion of sustainable consumption

49. Sustainable consumption includes meeting the needs of present and future generations for goods and services in ways that are economically, socially and environmentally sustainable.

50. Responsibility for sustainable consumption is shared by all members and organizations of society, with informed consumers, Member States, businesses, labour organizations, and consumer and environmental organizations playing particularly important roles. Informed consumers have an essential role in promoting consumption that is environmentally, economically and socially sustainable, including through the effects of their choices on producers. Member States should promote the development and implementation of policies for sustainable consumption and the integration of such policies with other public policies. Member State policy-making should be conducted in consultation with businesses, consumer and environmental organizations, and other concerned groups. Businesses have a responsibility for promoting sustainable consumption through the design, production and distribution of goods and services. Consumer and environmental organizations have a responsibility for promoting public participation and debate on sustainable consumption, for informing consumers, and for working with Member States and businesses towards sustainable consumption.

51. Member States, in partnership with businesses and relevant organizations of civil society, should develop and implement strategies that promote sustainable consumption through a mix of policies that could include regulations; economic and social instruments; sectoral policies in such areas as land use, transport, energy and housing; information programmes to raise awareness of the impact of consumption patterns; removal of subsidies that promote unsustainable patterns of consumption and production; and promotion of sector-specific environmental management best practices.

52. Member States should encourage the design, development and use of products and services that are safe and energy and resource efficient, considering their full life cycle impacts. Member States should encourage recycling programmes that encourage consumers to both recycle wastes and purchase recycled products.

53. Member States should promote the development and use of national and international environmental health and safety standards for products and services; such standards should not result in disguised barriers to trade.

54. Member States should encourage impartial environmental testing of products.

55. Member States should safely manage environmentally harmful uses of substances and encourage the development of environmentally sound alternatives for such uses. New potentially hazardous substances should be evaluated on a scientific basis for their long-term environmental impact prior to distribution.

56. Member States should promote awareness of the health-related benefits of sustainable consumption and production patterns, bearing in mind both direct effects on individual health and collective effects through environmental protection.

57. Member States, in partnership with the private sector and other relevant organizations, should encourage the transformation of unsustainable consumption patterns through the development and use of new environmentally sound products and services and new technologies, including information and communications technologies that can meet consumer needs while reducing pollution and the depletion of natural resources.

58. Member States are encouraged to create or strengthen effective regulatory mechanisms for the protection of consumers, including aspects of sustainable consumption.

59. Member States should consider a range of economic instruments, such as fiscal instruments and the internalization of environmental costs, to promote sustainable consumption, taking into account social needs, the need for disincentives for unsustainable practices and incentives for more sustainable practices, while avoiding potential negative effects for market access, in particular for developing countries.

60. Member States, in cooperation with businesses and other relevant groups, should develop indicators, methodologies and databases for measuring progress towards sustainable consumption at all levels. This information should be publicly available.

61. Member States and international agencies should take the lead in introducing sustainable practices in their own operations, in particular through their procurement policies. Member State procurement, as appropriate, should encourage the development and use of environmentally sound products and services.

62. Member States and other relevant organizations should promote research on consumer behaviour related to environmental damage in order to identify ways to make consumption patterns more sustainable.

I. Electronic commerce

63. Member States should work towards enhancing consumer confidence in electronic commerce through the continued development of transparent and effective consumer protection policies, ensuring a level of protection that is not less than that afforded in other forms of commerce.

64. Member States should, where appropriate, review existing consumer protection policies, to accommodate the special features of electronic commerce and ensure that consumers and businesses are informed and aware of their rights and obligations in the digital marketplace.

65. Member States may wish to consider the relevant international guidelines and standards on electronic commerce and the revisions thereto and, where appropriate, adapt such guidelines and standards to their economic, social and environmental circumstances in order that they may adhere to them and collaborate with other Member States in their implementation across borders. In so doing, Member States may wish to study the *Guidelines for Consumer Protection in the Context of Electronic Commerce* of the Organization for Economic Cooperation and Development.

J. Financial services

66. Member States should establish or encourage, as appropriate, the following:

(a) Financial consumer protection regulatory and enforcement policies.

(b) Oversight bodies with the necessary authority and resources to carry out their missions.

(c) Appropriate controls and insurance mechanisms to protect consumer assets, including deposits.

(d) Improved financial education strategies that promote financial literacy.

(e) Fair treatment and proper disclosure, ensuring that financial institutions are also responsible and accountable for the actions of their authorized agents. Financial services providers should have a written policy on conflict of interest to help detect potential conflicts of interest. If the possibility of a conflict of interest arises between a provider and a third party, this should be disclosed to the consumer to ensure that potential consumer detriment generated by the conflict of interest may be avoided.

(f) Responsible business conduct by financial services providers and authorized agents, including responsible lending and the sale of products that are suitable to consumer needs and means.

(g) Appropriate controls to protect consumer financial data, including from fraud and abuse.

(h) A regulatory framework that promotes cost efficiency and transparency for remittances, such that consumers are provided with clear information on the price and delivery of funds to be transferred, exchange rates, all fees and any other costs associated with the funds transfers offered, as well as remedies if a transfer fails.

67. Member States should adopt measures to reinforce and integrate consumer policies concerning financial inclusion, financial education and the protection of consumers in accessing and using financial services.

68. Member States may wish to consider relevant international guidelines and standards on financial services and the revisions thereto and, where appropriate, adapt such guidelines and standards to their economic, social and environmental circumstances in order that they may adhere to them and collaborate with other Member States in their implementation across borders. In so doing, Member States may wish to study the *High-Level Principles on Financial Consumer Protection* of the Group of Twenty and the Organization for Economic Cooperation and Development, the *Principles for Innovative Financial Inclusion* of the Group of Twenty and the *Good Practices for Financial Consumer Protection* of the World Bank.

K. Measures relating to specific areas

69. In advancing consumer interests, particularly in developing countries, Member States should, where appropriate, give priority to areas of essential concern for the health of consumers, such as food, water, pharmaceuticals, energy and public utilities, and also address the specificities of tourism. Policies should be adopted or maintained for product quality control, adequate and secure distribution facilities, standardized international labelling and information, as well as education and research programmes in these areas. Member State guidelines in regard to specific areas should be developed in the context of the provisions in the guidelines for consumer protection.

70. Food. When formulating national policies and plans in regard to food, Member States should take into account the need of all consumers for food security and should support and, as far as possible, adopt standards from the Food and Agriculture Organization of the United Nations and the World Health Organization Codex Alimentarius or, in their absence, other generally accepted international food standards. Member States should maintain, develop or improve food safety measures, including, inter alia, safety criteria, food standards and dietary requirements and effective monitoring, inspection and evaluation mechanisms.

71. Member States should promote sustainable agricultural policies and practices, conservation of biodiversity and protection of soil and water, taking into account traditional knowledge.

72. Water. Member States should, within the goals and targets set for the International Drinking Water Supply and Sanitation Decade, formulate, maintain or strengthen national policies to improve the supply, distribution and quality of water for drinking. Due regard should be paid to the choice of appropriate levels of service, quality and technology, the need for education programmes and the importance of community participation.

73. Member States should assign high priority to the formulation and implementation of policies and programmes concerning the multiple uses of water, taking into account the importance of water for sustainable development in general and its finite character as a resource.

74. Pharmaceuticals. Member States should develop or maintain adequate standards and provisions and appropriate regulatory systems for ensuring the quality and appropriate use of pharmaceuticals through integrated national drug policies which could address, inter alia, procurement, distribution, production, licensing arrangements, registration systems and the availability of reliable information on pharmaceuticals. In so doing, Member States should take special account of the work and recommendations of the World Health Organization on pharmaceuticals. For relevant products, the use of that organization's Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce and other international information systems on pharmaceuticals should be encouraged. Measures should also be taken, as appropriate, to promote the use of international non-proprietary names for drugs, drawing on the work done by the World Health Organization.

75. In addition to the priority areas indicated above, Member States should adopt appropriate measures in other areas, such as pesticides and chemicals in regard, where relevant, to their use, production and storage, taking into account such relevant health and environmental information as Member States may require producers to provide and include in the labelling of products.

76. Energy. Member States should promote universal access to clean energy and formulate, maintain or strengthen national policies to improve the supply, distribution and quality of affordable energy for consumers according to their economic circumstances. Consideration should be given to the choice of appropriate levels of service, quality and technology, regulatory oversight, the need for awareness raising programmes and the importance of community participation.

77. Public utilities. Member States should promote universal access to public utilities and formulate, maintain or strengthen national policies to improve rules and statutes dealing with the provision of services, consumer information, security deposits and advance payment for services, late payment fees, termination and restoration of services, establishment of payment plans and dispute resolution between consumers and utility service providers, taking into account the needs of vulnerable and disadvantaged consumers.

78. Tourism. Member States should ensure that their consumer protection policies are adequate to address the marketing and provision of goods and services related to tourism including, but not limited to, travel, traveller accommodation and timeshares. Member States should, in particular, address the cross-border challenges raised by such activity, including enforcement cooperation and information sharing with other Member States, and should also cooperate with relevant stakeholders in the tourism and travel sector.

VI. International cooperation

79. Member States should, especially in a regional or subregional context:

(a) Develop, review, maintain or strengthen, as appropriate, mechanisms for the exchange of information on national policies and measures in the field of consumer protection.

(b) Cooperate or encourage cooperation in the implementation of consumer protection policies to achieve greater results within existing resources. Examples of such cooperation could be collaboration in the setting up or joint use of testing facilities, common testing procedures, exchange of consumer information and education programmes, joint training programmes and joint elaboration of regulations.

(c) Cooperate to improve the conditions under which essential goods are offered to consumers, giving due regard to both price and quality. Such cooperation could include joint procurement of essential goods, exchange of information on different procurement possibilities and agreements on regional product specifications.

80. Member States should develop or strengthen information links regarding products which have been banned, withdrawn or severely restricted in order to enable other importing countries to protect themselves adequately against the harmful effects of such products.

81. Member States should work to ensure that the quality of products, and information relating to such products, does not vary from country to country in a way that would have detrimental effects on consumers.

82. Member States should improve their ability to cooperate in combating fraudulent and deceptive cross-border commercial practices as this serves an important public interest, recognizing that cooperation in particular investigations or cases under the guidelines for consumer protection remains within the discretion of the consumer protection enforcement agency that has been asked to cooperate.

83. Member State consumer protection enforcement agencies should coordinate investigations and enforcement activities to avoid interference with the investigations and enforcement activities of consumer protection enforcement agencies taking place in other jurisdictions.

84. Member State consumer protection enforcement agencies should make every effort to resolve any disagreements that may arise regarding cooperation.

85. Member States and their consumer protection enforcement agencies should make use of existing international networks and enter into appropriate bilateral and multilateral arrangements and other initiatives to implement these guidelines.

86. Member States should enable their consumer protection policy agencies, in consultation with consumer protection enforcement agencies, to take a leading role in developing the framework for combating fraudulent and deceptive commercial practices, as set out in these guidelines.

87. Member States are invited to designate a consumer protection enforcement agency or a consumer protection policy agency to act as a contact point to facilitate cooperation under these guidelines. These designations are intended to complement and not replace other means of cooperation. Such designations should be notified to the Secretary-General.

88. Member States should provide their consumer protection enforcement agencies with the authority to investigate, pursue, obtain and, where appropriate, share relevant information and evidence, particularly on matters relating to cross-border fraudulent and deceptive commercial practices affecting consumers. This authority should extend to cooperation with foreign consumer protection enforcement agencies and other appropriate foreign counterparts.

89. Member States should consider participating in multilateral and bilateral arrangements to improve international judicial and inter-agency cooperation in the recovery of foreign assets and the enforcement of decisions in cross-border cases.

90. Member States may wish to consider relevant international guidelines and standards on protecting consumers from fraudulent and deceptive cross-border commercial practices, in considering the legal authority to provide to their consumer protection enforcement agencies and, where appropriate adapt such guidelines and standards to their circumstances. In so doing, Member States may wish to study the *Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders* of the Organization for Economic Cooperation and Development.

91. To promote sustainable consumption, Member States, international bodies and businesses should work together to develop, transfer and disseminate environmentally sound technologies, including through appropriate financial support from developed countries, and to devise new and innovative mechanisms for financing their transfer among all countries, in particular to and among developing countries and countries with economies in transition.

92. Member States and international organizations, as appropriate, should promote and facilitate capacity-building in the area of sustainable consumption, particularly in developing countries and countries with economies in transition. In particular, Member States should also facilitate cooperation among consumer groups and other relevant organizations of civil society, with the aim of strengthening capacity in this area.

93. Member States and international bodies, as appropriate, should promote programmes relating to consumer education and information.

94. Member States should work to ensure that policies and measures for consumer protection are implemented with due regard to their not becoming barriers to international trade, and that they are consistent with international trade obligations.

VII. International institutional machinery

A. Institutional arrangements

95. An Intergovernmental Group of Experts on Consumer Protection Law and Policy, operating within the framework of an existing Commission of the Trade and Development Board of the United Nations Conference on Trade and Development, will provide the institutional machinery.

96. Member States should take appropriate steps at the national or regional levels to implement these guidelines.

B. Functions of the Intergovernmental Group of Experts on Consumer Protection Law and Policy

97. The Intergovernmental Group of Experts on Consumer Protection Law and Policy shall have the following functions:

(a) Provide an annual forum and modalities for multilateral consultations, discussions and exchanges of views between Member States on matters related to the guidelines for consumer protection, in particular their implementation and the experience arising therefrom.

(b) Periodically undertake studies and research on consumer protection issues related to the guidelines based on Member State consensus and interests, and disseminate them with a view to increasing exchanges of experience and giving greater effectiveness to the guidelines.

(c) Conduct voluntary peer reviews of the national consumer protection policies of Member States, as implemented by consumer protection authorities.

(d) Collect and disseminate information on matters relating to the guidelines, the overall attainment of the guidelines' goals and the appropriate steps Member States have taken at the national or regional levels to promote effective implementation of the guidelines' objectives and principles.

(e) Provide capacity-building and technical assistance to developing countries and economies in transition in formulating and enforcing consumer protection laws and policies.

(f) Consider relevant studies, documentation and reports from relevant organizations of the United Nations system, and other international organizations and networks; exchange information on work programmes and topics for consultations; and identify work-sharing projects and areas of cooperation in the provision of technical assistance.

(g) Make appropriate reports and recommendations on Member States' consumer protection policies, including the application and implementation of the guidelines.

(h) Operate between sessions of and report to the United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

(i) Conduct a periodic review of the guidelines, when mandated to do so by the United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

(j) Establish such procedures and methods of work as may be necessary to carry out its mandate.

98. In the performance of its functions, neither the Intergovernmental Group nor its subsidiary organs shall pass judgement on the activities or conduct of individual Member States or of individual enterprises in connection with a specific business transaction. The Intergovernmental Group or its subsidiary organs should avoid becoming involved when enterprises in a specific business transaction are in dispute.

99. The Intergovernmental Group shall establish such procedures as may be necessary to deal with issues related to confidentiality.